

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6949

BILL NUMBER: HB 1097

NOTE PREPARED: Jan 21, 2004

BILL AMENDED:

SUBJECT: Burial grounds and cemeteries.

FIRST AUTHOR: Rep. Pierce

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill defines "artifact", for purposes of the Historic Preservation Law, as any human made object that is more than 100 years old. The bill requires a person to contact the Department of Natural Resources (DNR) to determine whether the ground that will be disturbed is within 100 feet of a recorded burial ground or cemetery. Except for certain coal operations, the bill requires approval of a development plan before disturbing the ground within 100 feet of a burial ground or cemetery.

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised) The impact of the above provisions is indeterminable but will depend on the number of inquiries that the DNR receives. If the DNR needed to hire additional staff to implement the proposal, the funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of December 29, 2003, the DNR had 170 budgeted full-time vacant positions with total minimum possible salaries of \$4.7 M. Additionally, for FY 2003, the DNR reverted \$10.8 M to the General Fund. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Background: Currently, DHPA has entered 46,651 archaeological sites into the DHPA's electronic database. About 1% or less of all the land in Indiana has been subjected to systematic archaeological reconnaissance for sites. The new definition of "artifact" would add nearly 90 years to the length of time covered. Given that the population of Indiana increased exponentially from 1816-1904, that the number and variety of historical sites also increased, and that the industrialization of the state occurred during this period, the redefinition of

“artifact” would afford protection likely to hundreds of thousands of new sites. Extending the definition of artifacts to 1904 would also add thousands of new historic types of artifacts, such as types of chinaware, industrial and agricultural tools, domestic items, structural and building artifacts, transportation items, etc., thus substantially increasing the number of cases that would have to be investigated and the number of plans that would have to be approved.

Currently, the Division reviews and approves plans for persons who wish to investigate sites with artifacts dating before December 11, 1816. The DHPA also investigates discoveries and disturbances of sites with those artifacts. Staff conduct field inspections of the discoveries, research and review plans and discoveries, meet with and advise law enforcement officials and other interested parties, draft letters, write reports of the cases, coordinate archaeological work necessary, etc. In addition to the above work, the archaeological contractor hired to conduct archaeological investigations may visit the DHPA to conduct a records check. An accidental discovery project may take as little as ½ hour if it turns out not to be a violation, or is not an artifact or does not involve human remains. Other projects require monitoring over a period of a few to several days, and some may continue for months.

The DHPA is the central repository of archaeological site records and reports for the entire state. Persons contact the office daily for site information, and two days each week are reserved for visitors to inspect archaeological site information and conduct records checks.

Since 1989, there have been a total of 895 cases, an average of about 60 cases per year. In 2000, there were 80 cases; 90 cases in 2001; and 64 cases in 2003. Approving plans necessary to disturb the ground to discover artifacts comprise approximately 41.5% of cases. A very rough estimate would be that newly included entities could add approximately 25 to 75 new “digs” for discoveries of archaeological artifacts each year.

Currently, four archaeological staff handle discoveries and report writing, in addition to their other regulatory duties. Staff also review development plans for construction projects located within 100 feet of a cemetery. Recently, the DHPA hired a temporary full-time data entry person, paid from federal funds, to begin updating the electronic database and map records. The current backlog of site forms waiting to be entered into the database is estimated between 3,000 and 5,000. Approximately, 1,000-3,000 new sites must be added to the inventory each year. A single database staff could enter approximately 1,500-2,000 sites into the database in a year.

DHPA Cemetery Registry: Under the proposal, the DHPA staff would be required to perform a records check and provide a written response indicating that there is not a cemetery within 100 feet of the proposed project site before the local government can issue a building permit. The DHPA would be required to handle the written responses for these requests within 30 days. Under current law, builders are not required to perform a records check with the DHPA to determine if their project is near a cemetery. However, if the project is known to be within 100 feet of a cemetery or burial ground, the builder or developer must send a Development Plan to the DHPA.

The proposal includes ground-disturbing projects of utility companies, oil and gas well-drilling operations, and sand and gravel operations. When these providers construct or modify a line, facility, or operation, a letter about the proximity of cemeteries is required from the DHPA. According to the Indiana Utility Regulatory Commission’s website, there are 42 Electric Service Providers, 23 Natural Gas Service Providers, 147 water-only providers, 2 Water/Sewer-combined Service Providers, and 49 Sewer-only Service Providers. According to the Indiana Geological Survey, 118 sand and gravel companies exist in Indiana operating 189 pits. According to the DNR Division of Oil and Gas, 12,000 oil well and gas well sites exist in Indiana.

In 2003, approximately 50 record checks were completed by one staff. The average record check takes 1 hour. In addition to this, the staff assisted 75 archaeologists with their record checks, taking approximately 15 minutes per assistance.

Records checks include looking at compiled data, archaeological reports, topographic maps, soil maps, and other records and information that the DHPA maintains. DHPA staff estimate that there are approximately 100,000 cemeteries and burial grounds throughout the state. Eventually, a record for each site must be completed and entered into the database. To date, only about 1,200 sites have been entered into the database. On average, it takes 30 to 60 minutes to enter one site into the database. Until the database is complete, record checks are done using paper documents.

Explanation of State Revenues:

Explanation of Local Expenditures: The proposal could reduce local expenditures to the extent that the local units would have documentation from the state indicating that a burial ground was or was not within 100 feet of the land disturbance. Local units would not need to make their own determinations.

Explanation of Local Revenues:

State Agencies Affected: Department of Natural Resources.

Local Agencies Affected: Local units.

Information Sources: Steve Kennedy, Chief of Grants and Administration, DNR, Division of Historic Preservation and Archaeology (317) 232-1646; Department of Personnel Staffing Report and the State Budget Agency Reversion List.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.